

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

WAYNER BLACK,

Defendant.

ORDER

09-cr-108-bbc
12-cv-420-bbc

On June 27, 2012, I denied defendant Wayner Black's motion for post conviction relief under 28 U.S.C. § 2255 for his failure to show that either his conviction or sentence is illegal. In the same order, I also denied the issuance of certificate of appealability under the newly effective amendments to Rule 11 of the Rules Government Section 2255 Cases in the United States District Courts.

Now defendant has filed a notice of appeal from the June 27, 2012 order denying his post conviction motion under 28 U.S.C. § 2255 and a motion to proceed on appeal in forma pauperis.

According to 28 U.S.C. § 1915(a), a defendant who is found eligible for court-appointed counsel in the district court proceedings may proceed on appeal in forma pauperis

without further authorization “unless the district court shall certify that the appeal is not taken in good faith or shall find that the party is otherwise not entitled so to proceed.” Defendant had appointed counsel during the criminal proceedings against him and I do not intend to certify that the appeal is not taken in good faith. Defendant’s challenge to his sentence is not wholly frivolous. A reasonable person could suppose that it has some merit. Lee v. Clinton, 209 F.3d 1025, 1026 (7th Cir. 2000).

ORDER

IT IS ORDERED that defendant Wayner Black’s request for leave to proceed in forma pauperis on appeal is GRANTED.

Entered this 27th day of July, 2012.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge